

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL NO.2176 OF 1998

TO

FIRST APPEAL NO.2210 OF 1998

1. Whether reporters of local papers may be allowed to see the order ?
2. To be referred to the reporters or not ?
3. Whether their lordships wish to see the fair copy of the order ?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
5. Whether it is to be circulated to the Civil Judge?

THE STATE OF GUJARAT & ANR.

VERSUS

CHAUDHRI SHANKARBHAI DANSANGBHAI

Appearance: (In all First Appeals)
MR MUKESH PATEL, AGP for the Appellant

Coram: S.K. Keshote,J
Date of decision: 16/07/1998

C.A.V. ORDER

Heard the learned counsel for the appellants.

2. These Appeals are directed by the State of Gujarat and the Deputy Collector, Land Acquisition, Dharoi Canal Project, Visnagar, against the common judgment and order of the 3rd Extra Assistant Judge, Mehsana in Land Acquisition Reference Case Nos.297 of 1989 and 331 of 1989, Main L.A.R. No.305 of 1989 decided on 24th October 1996.

3. The land acquisition proceedings have been initiated for the purpose of Dharoi Canal Project and the lands situated in the sim of village Chhogala, Taluka Visnagar, District Mehsana, of the claimants, the respondents herein, in these Appeals have been acquired for this Project. The Notification under Section 4 of the Land Acquisition Act, 1894, for this acquisition was published in the Government Gazette on 30.5.85 and the Notification under Section 6 was published on 16.7.87. After issuing the notice under Section 9 of the Act to the persons interested in the acquired lands, the Land Acquisition Officer, under its Award dated 29th March 1988, awarded the compensation to the claimants-respondents at the rate of Rs.1.80 per sq.mt. The claimants-respondents were not satisfied with this Award of the Land Acquisition Officer as the amount of compensation awarded to them was not just, adequate, proper and reasonable and as such, they prayed for making a Reference of the matter to the Civil Court and accordingly Reference were made to the Civil Court which came to be decided under the impugned judgment and Award.

4. Before the Reference Court, the claimants-respondents have claimed compensation at the rate of Rs.10/= per sq.mt. The appellants herein have contested those Reference by filing common objections. In order to prove the claims from the side of the claimants-respondents, one Shri Karshanbhai Nathubhai was examined at Ex.13. The claimants-respondents have further produced before the Reference Court in support of their cases, the extracts of Village Form No.7/12 vide Ex.14 to 74, tracing of Talati-cum-Mantri vide Ex.76 and certified copies of the judgments of the Reference Court of the said District in L.A.R. No.3/88 to 20/88 & 171/77, L.A.R. 507/89 to 518/89 and L.A.R. No.439/89 to 475/89.

5. The appellants, who were the opponents in the Reference Court have neither adduced any oral evidence nor produced any documentary evidence in these Reference and they have closed their evidence vide Purshis Ex.81.

6. The learned Reference Court has noticed that in

these cases, the claimants have not relied on any sale transaction or any expert evidence to establish the market price of the lands. The learned Reference Court has initially proceeded to determine the compensation to be awarded to the claimants for the compulsory acquisition of land by adopting 'yield method', but during the course of arguments, the learned counsel who was appearing for the claimants has produced the decision of the Reference Court, detailed above, by the District Court, Mehsana, wherein the compensation was awarded at the rate of Rs.10/- per sq.mt. The subject matter of those Reference was the acquisition proceedings of the land of village Thalota for this very Dharoi Canal Project. The evidence which has come on record that there is a common boundary of village Chhogala and village Thalota, has been accepted by the Reference Court. There is also evidence on record and which has been accepted by the Reference Court that the lands of these two villages are of equal fertility. So while determining the compensation to be awarded to the claimants, the Reference Court has put reliance on its own previous decision which was given for acquisition of neighbouring lands which were acquired for the same Project. It is not in dispute that the previous judgment of the Reference Court for determining the compensation to be paid to the claimants in this case is a relevant and material piece of evidence. However, while relying on the judgment, the Reference Court has to take into notice that the lands are in near vicinity as well as are of equal fertility, which has been taken into consideration in the present case. The claimants in this case have produced evidence that the lands which were the subject matter of the previous judgment were neighbouring lands and are of equal fertility, but the appellant has not produced any evidence controverting the evidence of the claimants. There is a document on record Ex.76, i.e. the tracing map of village Chhogala and village Thalota wherefrom it comes out that these two villages are adjoining to each other. In the presence of these facts, and further in absence of any evidence forthcoming from the side of the appellants, the Reference Court has not committed any error in relying on its own previous decision and awarding the compensation for compulsory acquisition of their lands to the claimants at that rate of Rs.10/= per sq.mt. It is necessary to mention here that the previous judgment given by the Reference court in respect of the lands of village Thalota which were acquired for the same purpose, was not reversed or modified by the higher Court. This fact has been noticed by the Reference Court. It is also not the case of the learned counsel for the appellant here that those

judgments on which reliance have been placed by the Reference Court, determining the compensation for compulsory acquisition of lands of the claimants, have been reversed or modified by this Court.

7. Now, I may consider this matter from another angle. Out of these Appeals, in ten Appeals, the additional amount of compensation awarded by the Reference Court is more than Rs.15,000/=. In rest of the Appeals, numbering 25, the amount of additional compensation awarded is less than Rs.15,000/=. In one Appeal, the amount of additional compensation awarded is only Rs.262.40 and still the State Government has filed Appeal in such matter. The expenses of filing of Appeal in such matters may certainly be more than the amount of expenses which have to be incurred by the State Government in making payment or they may be atleast equal to the amount of costs of filing this Appeal. These Appeals otherwise also deserve no admission in view of the Division Bench decision of this Court in Civil Application No.7876 of 1997 with allied matters in First Appeal No.2274 of 1997 in the case of Special Land Acquisition Officer versus Shantaben, wd/o Chhitubhai. The judgment of this Court as aforesaid, has been given on 10th September 1997, but even after this judgment, the State Government is filing the Appeals in the matters of compensation to be awarded for compulsory acquisition of lands under the provisions of the Land Acquisition Act, 1894, even if the amount of compensation awarded is less than Rs.15,000/+, which is nothing but a sheer waste of people's money. The learned counsel for the appellant admits that against the judgment of this Court in the aforesaid case, no Appeal has been filed in the Supreme Court. Once this Court has decided that in the matter where additional compensation awarded by the Reference Court does not exceed Rs.15,000/+, the Appeals are not maintainable, still filing of such Appeals in the matters by the State Government deserves to be deprecated. Moreover, the cost of litigation is not cheap in our country. Filing of the Appeals in such matters are also against national interest. This country is already short of papers and the students of our country are not getting notebooks etc. at a lower price, for the reason that the cost of papers is increasing. Otherwise also, filing of the Appeals in such matters is nothing but a sheer wastage of stationary. That also costs to the State Government. The Court fees also costs and above that the other incidental expenses including the Advocate fees also cost. So in such matters, filing of the Appeals is unnecessary burden to the public exchequer and which should have been avoided. I am constrained to make these

observations as I am seeing that despite of judgment of this Court aforesaid, the State Government is filing the Appeals in this Court in the matters where the amount of additional compensation in the matter of compensation awarded for the compulsory acquisition of land to the claimants by the Reference Court is even less than Rs.15,000/=. In the result, all these Appeals fail and the same are dismissed. No order as to costs.

8. A copy of this order may be sent to the Chief Secretary to the Government of Gujarat and it is expected of the Chief Secretary to the Government to issue necessary Circular to all the concerned officers in the matter so that in the matters as aforesaid, Appeals are not filed before this Court and unnecessary burden on the public exchequer is avoided.

(S.K.Keshote, J.)

(sunil)